

Proposed technical correction:

SECTION #.(a) The heading of Article 49 of Chapter 58 of the General Statutes reads as rewritten:

"Article 49.

"Determination of Jurisdiction Over Providers of Health Care ~~Benefits; Regulation of Multiple Employer Welfare Arrangements. Benefits.~~"

SECTION #.(b) G.S. 58-50-40(a)(1) reads as rewritten:

"[§ 58-50-40. Willful failure to pay group insurance premiums; willful termination of a group health plan; notice to persons insured; penalty; restitution; examination of insurance transactions.

(a) As used in this section and in G.S. 58-50-45:]

(1) "Group health insurance" means any policy described in G.S. 58-51-75, 58-51-80, or 58-51-90; any group insurance certificate or group subscriber contract issued by a service corporation pursuant to Articles 65 and 66 of this Chapter; any health care plan provided or arranged by a health maintenance organization pursuant to Article 67 of this Chapter; or any multiple employer welfare arrangement as defined in ~~G.S. 58-50A-60(a) [58-50A-1].~~ G.S. 58-50A-1.

[(2) "Group health plan" means a single employer self-insured group health plan as defined in section 607(1) of the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1167(1), as amended.

(3) "Insurance fiduciary" means any person, employer, principal, agent, trustee, or third-party administrator who is responsible for the payment of group health or group life insurance premiums or who is responsible for funding a group health plan.

(4) "Premiums" includes contributions to a group health plan or to a multiple employer welfare arrangement.

(b) No insurance fiduciary shall:

(1) Cause the cancellation or nonrenewal of group health or group life insurance and the consequential loss of the coverages of the persons insured by willfully failing to pay such premiums in accordance with the terms of a group health or group life insurance contract; or, in the case of a group health plan to which there are no premiums contributed, terminate the plan by willfully failing to fund the plan; and

(2) Willfully fail to deliver, at least 45 days before the termination of the group health or group life insurance or group health plan, to all persons covered by the group policy or group health plan a written notice of the insurance fiduciary's intention to stop payment of premiums for the group life or health insurance or the insurance fiduciary's intention to cease funding of a group health plan.

(c) Any insurance fiduciary who violates subsection (b) of this section shall be guilty of the following felony offense:

(1) If the total value of losses suffered as a result of an insurance fiduciary's violation of subsection (b) of this section is one hundred thousand dollars (\$100,000) or more, the violation is a Class F felony.

- (2) If the total value of losses suffered as a result of an insurance fiduciary's violation of subsection (b) of this section is less than one hundred thousand dollars (\$100,000), the violation is a Class H felony.
- (d) Repealed by Session Laws 1991, c. 644, s. 37.
- (e) Upon conviction under subsection (c) of this section the court shall order the insurance fiduciary to make full restitution to persons insured who incurred expenses that would have been covered by the group health insurance or group health plan or full restitution to beneficiaries of the group life insurance for death benefits that would have been paid if the coverage had not been terminated.
- (f) Insurance fiduciaries subject to this section shall be subject to the provisions of G.S. 58-2-200 with respect only to transactions involving group health or life insurance.
- (g) In the notice required by subsection (b) of this section, the insurance fiduciary shall also notify those persons of their rights to health insurance conversion policies under Article 53 of this Chapter and their rights to purchase individual policies under the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191, as amended, and Article 68 of this Chapter.
- (h) In the event of the insolvency of an employer or insurance fiduciary who has violated this section, any person specified in subsection (e) of this section shall have a lien upon the assets of the employer or insurance fiduciary for the expenses or benefits specified in subsection (e) of this section. With respect to personal property within the estate of the insolvent employer or insurance fiduciary, the lien shall have priority over unperfected security interests.
- (i) Upon the termination of a group health insurance contract by the insurer, the insurer shall notify every subscriber and certificate holder under the contract of the termination of the contract along with the certification required to be provided under G.S. 58-68-30(e). Upon the termination of a group health insurance contract by the insurance fiduciary, the insurance fiduciary shall notify every subscriber and certificate holder under the contract of the termination of the contract along with the certification required to be provided under G.S. 58-68-30(e).
- (j) This section shall not apply to the cessation of individual contributions made by any person covered by a group health or group life insurance policy or group health plan.] (1985, c. 507, s. 1; 1989, c. 485, s. 51; 1989 (Reg. Sess., 1990), c. 1055, ss. 2, 3.1; 1991, c. 644, s. 37; 1993, c. 539, s. 1274; 1994, Ex. Sess., c. 24, s. 14(c); 2001-422, s. 1; 2006-105, s. 1.8; 2016-78, s. 3.1; 2019-202, s. 8.)

SECTION #.(c) G.S. 58-50-61(a)(10) reads as rewritten:

"[§ 58-50-61. Utilization review.

- (a) Definitions. – As used in this section, in G.S. 58-50-62, and in Part 4 of this Article, the term:
 - (1) "Certificate of coverage" includes a policy of insurance issued to an individual person or a franchise policy issued pursuant to G.S. 58-51-90.
 - (1a) "Clinical peer" means a health care professional who holds an unrestricted license in a state of the United States, in the same or similar specialty, and routinely provides the health care services subject to utilization review.
 - (2) "Clinical review criteria" means the written screening procedures, decision abstracts, clinical protocols, and practice guidelines used by an insurer to determine medically necessary services and supplies.
 - (3) "Covered person" means a policyholder, subscriber, enrollee, or other individual covered by a health benefit plan. "Covered person" includes another

person, other than the covered person's provider, who is authorized to act on behalf of a covered person.

- (4) "Emergency medical condition" means a medical condition manifesting itself by acute symptoms of sufficient severity including, but not limited to, severe pain, or by acute symptoms developing from a chronic medical condition that would lead a prudent layperson, possessing an average knowledge of health and medicine, to reasonably expect the absence of immediate medical attention to result in any of the following:
 - a. Placing the health of an individual, or with respect to a pregnant woman, the health of the woman or her unborn child, in serious jeopardy.
 - b. Serious impairment to bodily functions.
 - c. Serious dysfunction of any bodily organ or part.
- (5) "Emergency services" means health care items and services furnished or required to screen for or treat an emergency medical condition until the condition is stabilized, including prehospital care and ancillary services routinely available to the emergency department.
- (6) "Grievance" means a written complaint submitted by a covered person about any of the following:
 - a. An insurer's decisions, policies, or actions related to availability, delivery, or quality of health care services. A written complaint submitted by a covered person about a decision rendered solely on the basis that the health benefit plan contains a benefits exclusion for the health care service in question is not a grievance if the exclusion of the specific service requested is clearly stated in the certificate of coverage.
 - b. Claims payment or handling; or reimbursement for services.
 - c. The contractual relationship between a covered person and an insurer.
 - d. The outcome of an appeal of a noncertification under this section.
- (7) "Health benefit plan" means any of the following if offered by an insurer: an accident and health insurance policy or certificate; a nonprofit hospital or medical service corporation contract; a health maintenance organization subscriber contract; or a plan provided by a multiple employer welfare arrangement. "Health benefit plan" does not mean any plan implemented or administered through the Department of Health and Human Services or its representatives. "Health benefit plan" also does not mean any of the following kinds of insurance:
 - a. Accident.
 - b. Credit.
 - c. Disability income.
 - d. Long-term or nursing home care.
 - e. Medicare supplement.
 - f. Specified disease.
 - g. Dental or vision.
 - h. Coverage issued as a supplement to liability insurance.
 - i. Workers' compensation.
 - j. Medical payments under automobile or homeowners.
 - k. Hospital income or indemnity.

- l. Insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability policy or equivalent self-insurance.
- (8) "Health care provider" means any person who is licensed, registered, or certified under Chapter 90 of the General Statutes or the laws of another state to provide health care services in the ordinary care of business or practice or a profession or in an approved education or training program; a health care facility as defined in G.S. 131E-176(9b) or the laws of another state to operate as a health care facility; or a pharmacy.
- (9) "Health care services" means services provided for the diagnosis, prevention, treatment, cure, or relief of a health condition, illness, injury, or disease.]
- (10) "Insurer" means an entity that writes a health benefit plan and that is an insurance company subject to this Chapter, a service corporation under Article 65 of this Chapter, a health maintenance organization under Article 67 of this Chapter, or a multiple employer welfare arrangement under ~~Article 49~~ Article 50A of this Chapter.
- [(11) "Managed care plan" means a health benefit plan in which an insurer either (i) requires a covered person to use or (ii) creates incentives, including financial incentives, for a covered person to use providers that are under contract with or managed, owned, or employed by the insurer.
- (12) "Medically necessary services or supplies" means those covered services or supplies that are:
- Provided for the diagnosis, treatment, cure, or relief of a health condition, illness, injury, or disease.
 - Except as allowed under G.S. 58-3-255, not for experimental, investigational, or cosmetic purposes.
 - Necessary for and appropriate to the diagnosis, treatment, cure, or relief of a health condition, illness, injury, disease, or its symptoms.
 - Within generally accepted standards of medical care in the community.
 - Not solely for the convenience of the insured, the insured's family, or the provider.

For medically necessary services, nothing in this subdivision precludes an insurer from comparing the cost-effectiveness of alternative services or supplies when determining which of the services or supplies will be covered.

- (13) "Noncertification" means a determination by an insurer or its designated utilization review organization that an admission, availability of care, continued stay, or other health care service has been reviewed and, based upon the information provided, does not meet the insurer's requirements for medical necessity, appropriateness, health care setting, level of care or effectiveness, or does not meet the prudent layperson standard for coverage of emergency services in G.S. 58-3-190, and the requested service is therefore denied, reduced, or terminated. A "noncertification" is not a decision rendered solely on the basis that the health benefit plan does not provide benefits for the health care service in question, if the exclusion of the specific service requested is clearly stated in the certificate of coverage. A "noncertification" includes any situation in which an insurer or its designated agent makes a decision about a

covered person's condition to determine whether a requested treatment is experimental, investigational, or cosmetic, and the extent of coverage under the health benefit plan is affected by that decision.

- (14) "Participating provider" means a provider who, under a contract with an insurer or with an insurer's contractor or subcontractor, has agreed to provide health care services to covered persons in return for direct or indirect payment from the insurer, other than coinsurance, copayments, or deductibles.
- (15) "Provider" means a health care provider.
- (16) "Stabilize" means to provide medical care that is appropriate to prevent a material deterioration of the person's condition, within reasonable medical probability, in accordance with the HCFA (Health Care Financing Administration) interpretative guidelines, policies, and regulations pertaining to responsibilities of hospitals in emergency cases (as provided under the Emergency Medical Treatment and Labor Act, section 1867 of the Social Security Act, 42 U.S.C.S. § 1395dd), including medically necessary services and supplies to maintain stabilization until the person is transferred.
- (17) "Utilization review" means a set of formal techniques designed to monitor the use of or evaluate the clinical necessity, appropriateness, efficacy or efficiency of health care services, procedures, providers, or facilities. These techniques may include:
 - a. Ambulatory review. – Utilization review of services performed or provided in an outpatient setting.
 - b. Case management. – A coordinated set of activities conducted for individual patient management of serious, complicated, protracted, or other health conditions.
 - c. Certification. – A determination by an insurer or its designated URO that an admission, availability of care, continued stay, or other service has been reviewed and, based on the information provided, satisfies the insurer's requirements for medically necessary services and supplies, appropriateness, health care setting, level of care, and effectiveness.
 - d. Concurrent review. – Utilization review conducted during a patient's hospital stay or course of treatment.
 - e. Discharge planning. – The formal process for determining, before discharge from a provider facility, the coordination and management of the care that a patient receives after discharge from a provider facility.
 - f. Prospective review. – Utilization review conducted before an admission or a course of treatment including any required preauthorization or precertification.
 - g. Retrospective review. – Utilization review of medically necessary services and supplies that is conducted after services have been provided to a patient, but not the review of a claim that is limited to an evaluation of reimbursement levels, veracity of documentation, accuracy of coding, or adjudication for payment. Retrospective review includes the review of claims for emergency services to determine whether the prudent layperson standard in G.S. 58-3-190 has been met.

- h. Second opinion. – An opportunity or requirement to obtain a clinical evaluation by a provider other than the provider originally making a recommendation for a proposed service to assess the clinical necessity and appropriateness of the proposed service.

(18) "Utilization review organization" or "URO" means an entity that conducts utilization review under a managed care plan, but does not mean an insurer performing utilization review for its own health benefit plan.

(b) Insurer Oversight. – Every insurer shall monitor all utilization review carried out by or on behalf of the insurer and ensure compliance with this section. An insurer shall ensure that appropriate personnel have operational responsibility for the conduct of the insurer's utilization review program. If an insurer contracts to have a URO perform its utilization review, the insurer shall monitor the URO to ensure compliance with this section, which shall include:

- (1) A written description of the URO's activities and responsibilities, including reporting requirements.
- (2) Evidence of formal approval of the utilization review organization program by the insurer.
- (3) A process by which the insurer evaluates the performance of the URO.

(c) Scope and Content of Program. – Every insurer shall prepare and maintain a utilization review program document that describes all delegated and nondelegated review functions for covered services including:

- (1) Procedures to evaluate the clinical necessity, appropriateness, efficacy, or efficiency of health services.
- (2) Data sources and clinical review criteria used in decision making.
- (3) The process for conducting appeals of noncertifications.
- (4) Mechanisms to ensure consistent application of review criteria and compatible decisions.
- (5) Data collection processes and analytical methods used in assessing utilization of health care services.
- (6) Provisions for assuring confidentiality of clinical and patient information in accordance with State and federal law.
- (7) The organizational structure (e.g., utilization review committee, quality assurance, or other committee) that periodically assesses utilization review activities and reports to the insurer's governing body.
- (8) The staff position functionally responsible for day-to-day program management.
- (9) The methods of collection and assessment of data about underutilization and overutilization of health care services and how the assessment is used to evaluate and improve procedures and criteria for utilization review.

(d) Program Operations. – In every utilization review program, an insurer or URO shall use documented clinical review criteria that are based on sound clinical evidence and that are periodically evaluated to assure ongoing efficacy. An insurer may develop its own clinical review criteria or purchase or license clinical review criteria. Criteria for determining when a patient needs to be placed in a substance abuse treatment program shall be either (i) the diagnostic criteria contained in the most recent revision of the American Society of Addiction Medicine Patient Placement Criteria for the Treatment of Substance-Related Disorders or (ii) criteria adopted by the

insurer or its URO. The Department, in consultation with the Department of Health and Human Services, may require proof of compliance with this subsection by a plan or URO.

Qualified health care professionals shall administer the utilization review program and oversee review decisions under the direction of a medical doctor. A medical doctor licensed to practice medicine in this State shall evaluate the clinical appropriateness of noncertifications. Compensation to persons involved in utilization review shall not contain any direct or indirect incentives for them to make any particular review decisions. Compensation to utilization reviewers shall not be directly or indirectly based on the number or type of noncertifications they render. In issuing a utilization review decision, an insurer shall: obtain all information required to make the decision, including pertinent clinical information; employ a process to ensure that utilization reviewers apply clinical review criteria consistently; and issue the decision in a timely manner pursuant to this section.

(e) Insurer Responsibilities. – Every insurer shall:

- (1) Routinely assess the effectiveness and efficiency of its utilization review program.
- (2) Coordinate the utilization review program with its other medical management activity, including quality assurance, credentialing, provider contracting, data reporting, grievance procedures, processes for assessing satisfaction of covered persons, and risk management.
- (3) Provide covered persons and their providers with access to its review staff by a toll-free or collect call telephone number whenever any provider is required to be available to provide services which may require prior certification to any plan enrollee. Every insurer shall establish standards for telephone accessibility and monitor telephone service as indicated by average speed of answer and call abandonment rate, on at least a month-by-month basis, to ensure that telephone service is adequate, and take corrective action when necessary.
- (4) Limit its requests for information to only that information that is necessary to certify the admission, procedure or treatment, length of stay, and frequency and duration of health care services.
- (5) Have written procedures for making utilization review decisions and for notifying covered persons of those decisions.
- (6) Have written procedures to address the failure or inability of a provider or covered person to provide all necessary information for review. If a provider or covered person fails to release necessary information in a timely manner, the insurer may deny certification.

(f) Prospective and Concurrent Reviews. – As used in this subsection, "necessary information" includes the results of any patient examination, clinical evaluation, or second opinion that may be required. Prospective and concurrent determinations shall be communicated to the covered person's provider within three business days after the insurer obtains all necessary information about the admission, procedure, or health care service. If an insurer certifies a health care service, the insurer shall notify the covered person's provider. For a noncertification, the insurer shall notify the covered person's provider and send written or electronic confirmation of the noncertification to the covered person. In concurrent reviews, the insurer shall remain liable for health care services until the covered person has been notified of the noncertification.

(g) Retrospective Reviews. – As used in this subsection, "necessary information" includes the results of any patient examination, clinical evaluation, or second opinion that may be required.

For retrospective review determinations, an insurer shall make the determination within 30 days after receiving all necessary information. For a certification, the insurer may give written notification to the covered person's provider. For a noncertification, the insurer shall give written notification to the covered person and the covered person's provider within five business days after making the noncertification.

(h) Notice of Noncertification. – A written notification of a noncertification shall include all reasons for the noncertification, including the clinical rationale, the instructions for initiating a voluntary appeal or reconsideration of the noncertification, and the instructions for requesting a written statement of the clinical review criteria used to make the noncertification. An insurer shall provide the clinical review criteria used to make the noncertification to any person who received the notification of the noncertification and who follows the procedures for a request. An insurer shall also inform the covered person in writing about the availability of assistance from Health Insurance Smart NC, including the telephone number and address of the Program.

(i) Requests for Informal Reconsideration. – An insurer may establish procedures for informal reconsideration of noncertifications and, if established, the procedures shall be in writing. After a written notice of noncertification has been issued in accordance with subsection (h) of this section, the reconsideration shall be conducted between the covered person's provider and a medical doctor licensed to practice medicine in this State designated by the insurer. An insurer shall not require a covered person to participate in an informal reconsideration before the covered person may appeal a noncertification under subsection (j) of this section. If, after informal reconsideration, the insurer upholds the noncertification decision, the insurer shall issue a new notice in accordance with subsection (h) of this section. If the insurer is unable to render an informal reconsideration decision within 10 business days after the date of receipt of the request for an informal reconsideration, it shall treat the request for informal reconsideration as a request for an appeal; provided that the requirements of subsection (k) of this section for acknowledging the request shall apply beginning on the day the insurer determines an informal reconsideration decision cannot be made before the tenth business day after receipt of the request for an informal reconsideration.

(j) Appeals of Noncertifications. – Every insurer shall have written procedures for appeals of noncertifications by covered persons or their providers acting on their behalves, including expedited review to address a situation where the time frames for the standard review procedures set forth in this section would reasonably appear to seriously jeopardize the life or health of a covered person or jeopardize the covered person's ability to regain maximum function. Each appeal shall be evaluated by a medical doctor licensed to practice medicine in this State who was not involved in the noncertification.

(k) Nonexpedited Appeals. – Within three business days after receiving a request for a standard, nonexpedited appeal, the insurer shall provide the covered person with the name, address, and telephone number of the coordinator and information on how to submit written material. For standard, nonexpedited appeals, the insurer shall give written notification of the decision, in clear terms, to the covered person and the covered person's provider within 30 days after the insurer receives the request for an appeal. If the decision is not in favor of the covered person, the written decision shall contain:

- (1) The professional qualifications and licensure of the person or persons reviewing the appeal.
- (2) A statement of the reviewers' understanding of the reason for the covered person's appeal.

- (3) The reviewers' decision in clear terms and the medical rationale in sufficient detail for the covered person to respond further to the insurer's position.
- (4) A reference to the evidence or documentation that is the basis for the decision, including the clinical review criteria used to make the determination, and instructions for requesting the clinical review criteria.
- (5) A statement advising the covered person of the covered person's right to request a second-level grievance review and a description of the procedure for submitting a second-level grievance under G.S. 58-50-62.
- (6) Notice of the availability of assistance from Health Insurance Smart NC, including the telephone number and address of the Program.

(l) Expedited Appeals. – An expedited appeal of a noncertification may be requested by a covered person or his or her provider acting on the covered person's behalf only when a nonexpedited appeal would reasonably appear to seriously jeopardize the life or health of a covered person or jeopardize the covered person's ability to regain maximum function. The insurer may require documentation of the medical justification for the expedited appeal. The insurer shall, in consultation with a medical doctor licensed to practice medicine in this State, provide expedited review, and the insurer shall communicate its decision in writing to the covered person and his or her provider as soon as possible, but not later than four days after receiving the information justifying expedited review. The written decision shall contain the provisions specified in subsection (k) of this section. If the expedited review is a concurrent review determination, the insurer shall remain liable for the coverage of health care services until the covered person has been notified of the determination. An insurer is not required to provide an expedited review for retrospective noncertifications.

(m) Disclosure Requirements. – In the certificate of coverage and member handbook provided to covered persons, an insurer shall include a clear and comprehensive description of its utilization review procedures, including the procedures for appealing noncertifications and a statement of the rights and responsibilities of covered persons, including the voluntary nature of the appeal process, with respect to those procedures. An insurer shall also include in the certificate of coverage and the member handbook information about the availability of assistance from Health Insurance Smart NC, including the telephone number and address of the Program. An insurer shall include a summary of its utilization review procedures in materials intended for prospective covered persons. An insurer shall print on its membership cards a toll-free telephone number to call for utilization review purposes.

(n) Maintenance of Records. – Every insurer and URO shall maintain records of each review performed and each appeal received or reviewed, as well as documentation sufficient to demonstrate compliance with this section. The maintenance of these records, including electronic reproduction and storage, shall be governed by rules adopted by the Commissioner that apply to insurers. These records shall be retained by the insurer and URO for a period of five years or, for domestic companies, until the Commissioner has adopted a final report of a general examination that contains a review of these records for that calendar year, whichever is later.

(o) Violation. – A violation of this section subjects an insurer to G.S. 58-2-70.] (1997-443, s. 11A.122; 1997-519, s. 4.1; 1999-116, s. 1; 1999-391, ss. 1-4; 2001-417, ss. 2-7; 2001-416, ss. 4.4, 5; 2003-105, s. 1; 2005-223, s. 8; 2008-124, s. 5.1; 2013-199, ss. 13, 14, 15.)

SECTION #.(d) G.S. 58-50-115(c) reads as rewritten:

"[§ 58-50-115. Health benefit plans subject to Act.

(a) A health benefit plan is subject to this Act if it provides health benefits for small employers and if any of the following conditions are met:

- (1) Any part of the premiums or benefits is paid by a small employer or any covered individual is reimbursed, whether through wage or adjustments or otherwise, by a small employer for any portion of the premium;
- (2) The health benefit plan is treated by the employer as part of a plan or program for the purpose of sections 106, 125, or 162 of the United States Internal Revenue Code; or
- (3) The small employer has permitted payroll deductions for the eligible enrollees for the health benefit plans.

(b) Repealed by Session Laws 1993, c. 529, s. 3.5, effective January 1, 1995.]

(c) A health benefit plan is not subject to this Act if it provides health benefits for employers who are employer members of a Path 2 MEWA pursuant ~~to~~ to Article 50A of this Chapter through a policy issued to the Path 2 MEWA." (1991, c. 630, s. 1; 1993, c. 529, s. 3.5; 2013-357, s. 2(c); 2019-202, s. 4(b).)

SECTION #.(e) G.S. 58-50A-60 reads as rewritten:

"§ 58-50A-60. Multiple employer welfare arrangements; ~~definition; administrators.~~

(a) Repealed by Session Laws 2019-202, s. 3(a), effective October 1, 2019, and applicable to contracts entered into, amended, or renewed on or after January 1, 2020.

(b) Each insurer licensed to do business in this State that administers a MEWA shall, at the request of the Commissioner, provide the Commissioner with such information regarding the insurer's administrative services contract or contracts with such MEWA or MEWAs that the Commissioner requires. No unlicensed insurer shall administer any MEWA." (1989 (Reg. Sess., 1990), c. 1055, s. 1; 1991, c. 611, s. 3; 2019-202, ss. 2(a), 3(a).)

SECTION #.(f) G.S. 58-51-55(d) reads as rewritten:

"[§ 58-51-55. No discrimination against mentally ill or chemically dependent individuals.

(a) Definitions. – As used in this section, the term:

- (1) "Mental illness" has the same meaning as defined in G.S. 122C-3(21), with a mental disorder defined in the Diagnostic and Statistical Manual of Mental Disorders, DSM-5, or a subsequent edition published by the American Psychiatric Association, except those mental disorders coded in the DSM-5 or subsequent editions as autism spectrum disorder (299.00), substance-related disorders (291.0 through 292.9 and 303.0 through 305.9), those coded as sexual dysfunctions not due to organic disease (302.70 through 302.79), and those coded as "V" codes.
- (2) "Chemical dependency" has the same meaning as defined in G.S. 58-51-50, with a mental disorder defined in the Diagnostic and Statistical Manual of Mental Disorders, DSM-5, or subsequent editions published by the American Psychiatric Association.

(b) Coverage of Physical Illness. – No insurance company licensed in this State under this Chapter shall, solely because an individual to be insured has or had a mental illness or chemical dependency:

- (1) Refuse to issue or deliver to that individual any policy that affords benefits or coverages for any medical treatment or service for physical illness or injury;
- (2) Have a higher premium rate or charge for physical illness or injury coverages or benefits for that individual; or

- (3) Reduce physical illness or injury coverages or benefits for that individual.
- (b1) [Expired October 1, 2001.]
- (c) Chemical Dependency Coverage Not Required. – Nothing in this section requires an insurer to offer coverage for chemical dependency, except as provided in G.S. 58-51-50.]
- (d) Applicability. – This section applies only to group health insurance contracts, other than excepted benefits as defined in G.S. 58-68-25. For purposes of this section, "group health insurance contracts" include MEWAs, as defined in ~~G.S. 58-50A-60(a)~~ ~~[G.S. 58-50A-1]~~ G.S. 58-50A-1.
- [(e) Nothing in this section requires an insurer to cover treatment or studies leading to or in connection with sex changes or modifications and related care.]" (1989, c. 369, s. 3; 1991, c. 720, s. 81; 1997-259, s. 21; 1999-132, s. 4.2; 2007-268, s. 1; 2015-271, s. 3; 2019-202, s. 8.)

SECTION #.(g) G.S. 58-65-90(d) reads as rewritten:

"[§ 58-65-90. **No discrimination against mentally ill or chemically dependent individuals.**

- (a) Definitions. – As used in this section, the term:
 - (1) "Mental illness" has the same meaning as defined in G.S. 122C-3(21), with a mental disorder defined in the Diagnostic and Statistical Manual of Mental Disorders, DSM-5, or subsequent editions published by the American Psychiatric Association, except those mental disorders coded in the DSM-5 or subsequent editions as substance-related disorders (291.0 through 292.9 and 303.0 through 305.9), those coded as autism spectrum disorder (299.00), sexual dysfunctions not due to organic disease (302.70 through 302.79), and those coded as "V" codes.
 - (2) "Chemical dependency" has the same meaning as defined in G.S. 58-65-75, with a mental disorder defined in the Diagnostic and Statistical Manual of Mental Disorders, DSM-5, or subsequent editions published by the American Psychiatric Association.
- (b) Coverage of Physical Illness. – No service corporation governed by this Chapter shall, solely because an individual to be insured has or had a mental illness or chemical dependency:
 - (1) Refuse to issue or deliver to that individual any individual or group subscriber contract in this State that affords benefits or coverage for medical treatment or service for physical illness or injury;
 - (2) Have a higher premium rate or charge for physical illness or injury coverages or benefits for that individual; or
 - (3) Reduce physical illness or injury coverages or benefits for that individual.
- (b1) [Expired October 1, 2001.]
- (c) Chemical Dependency Coverage Not Required. – Nothing in this section requires a service corporation to offer coverage for chemical dependency, except as provided in G.S. 58-65-75.]
- (d) Applicability. – This section applies only to group health insurance contracts, other than excepted benefits as defined in G.S. 58-68-25. For purposes of this section, "group health insurance contracts" include MEWAs, as defined in ~~G.S. 58-50A-60(a)~~ ~~[G.S. 58-50A-1]~~ G.S. 58-50A-1.
- [(e) Nothing in this section requires an insurer to cover treatment or studies leading to or in connection with sex changes or modifications and related care.]" (1989, c. 369, s. 1; 1991, c. 720, s. 82; 1997-259, s. 22; 1999-132, s. 4.3; 2007-268, s. 3; 2015-271, s. 5; 2019-202, s. 8.)

SECTION #.(h) G.S. 58-67-75(d) reads as rewritten:

"[§ 58-67-75. No discrimination against mentally ill or chemically dependent individuals.

- (a) Definitions. – As used in this section, the term:
- (1) "Mental illness" has the same meaning as defined in G.S. 122C-3(21), with a mental disorder defined in the Diagnostic and Statistical Manual of Mental Disorders, DSM-5, or subsequent editions published by the American Psychiatric Association, except those mental disorders coded in the DSM-5 or subsequent editions as autism spectrum disorder (299.00), substance-related disorders (291.0 through 292.9 and 303.0 through 305.9), those coded as sexual dysfunctions not due to organic disease (302.70 through 302.79), and those coded as "V" codes.
 - (2) "Chemical dependency" has the same meaning as defined in G.S. 58-67-70, with a mental disorder defined in the Diagnostic and Statistical Manual of Mental Disorders, DSM-5 or subsequent editions published by the American Psychiatric Association.
- (b) Coverage of Physical Illness. – No health maintenance organization governed by this Chapter shall, solely because an individual has or had a mental illness or chemical dependency:
- (1) Refuse to enroll that individual in any health care plan covering physical illness or injury;
 - (2) Have a higher premium rate or charge for physical illness or injury coverages or benefits for that individual; or
 - (3) Reduce physical illness or injury coverages or benefits for that individual.
- (b1) [Expired October 1, 2001.]
- (c) Chemical Dependency Coverage Not Required. – Nothing in this section requires an HMO to offer coverage for chemical dependency, except as provided in G.S. 58-67-70.]
- (d) Applicability. – This section applies only to group contracts, other than excepted benefits as defined in G.S. 58-68-25. For purposes of this section, "group health insurance contracts" include MEWAs, as defined in ~~G.S. 58-50A-60(a)~~ ~~[G.S. 58-50A-1]~~ G.S. 58-50A-1.
- (e) Nothing in this section requires an insurer to cover treatment or studies leading to or in connection with sex changes or modifications and related care.]" (1989, c. 369, s. 2; 1991, c. 720, s. 83; 1997-259, s. 23; 1999-132, s. 4.4; 2007-268, s. 4; 2015-271, s. 4; 2019-202, s. 8.)

Explanation: This proposed technical correction fixes the following errors arising from S.L. 2019-202:

- In the heading of Article 49 of Chapter 58 of the General Statutes, deletes the phrase "Regulation of Multiple Employer Welfare Arrangements", because Section 2 of S.L. 2019-202 recodified the multiple employer welfare arrangement statutes to a new Article 50A of Chapter 58 of the General Statutes.
- In G.S. 58-50-40(a)(1), G.S. 58-51-55(d), G.S. 58-65-90(d), and G.S. 58-67-75(d), fixes references to G.S. 58-50A-60(a), which should instead be to G.S. 58-50A-1. Section 2(a) of S.L. 2019-202 recodified G.S. 58-49-30 as G.S. 58-50A-60, which included a definition of "multiple employer welfare arrangement". Section 3(a) of the session law, however repealed this definition, because Section 1 of the session law added a new definition of "multiple employer welfare arrangement" in new G.S. 58-50A-1 of new Article 50A. The Codifier has the authority to make conforming changes to Section 2(a)'s recodification of the definition from G.S. 58-49-30(a) to G.S. 58-50A-60(a) but does not have the authority

to make conforming changes to the repeal of G.S. 58-50A-60(a) and addition of G.S. 58-50A-1. The Codifier thus added the correct reference in brackets in these four statutes.

- In G.S. 58-50-61(10), replace a reference to Article 49 with a reference to the new Article 50A. This reference is about the multiple employer welfare arrangement statutes, which Section 2 of S.L. 2019-202 recodified from Article 49 to Article 50A.
- In G.S. 58-50-115(c), adds the missing word "to". Section 4(b) of S.L. 2019-202, which added subsection (c), omitted this word.
- In the section catchline of G.S. 58-50A-60, deletes the word "definition", because Section 3(a) of S.L. 2019-202 repealed the only definition in this section.

Session law excerpt:

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019**

**SESSION LAW 2019-202
SENATE BILL 86**

AN ACT TO ESTABLISH STANDARDS FOR ASSOCIATION HEALTH PLANS AND
MULTIPLE EMPLOYER WELFARE ARRANGEMENTS.

...

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 58 of the General Statutes is amended by adding a new Article to read:

"Article 50A.

"Association Health Plans and Multiple Employer Welfare Arrangements.

"§ 58-50A-1. Definitions.

The following definitions apply in this Article:

- (1) Employer member. – A person or entity acting directly as the employer of at least one employee, or a working owner, either of whom is a participant covered under a Path 2 MEWA.
- (2) Employee welfare benefit plan. – The term as defined in Section 3 of the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1002(1), as amended.
- (3) Multiple employer welfare arrangement or MEWA. – The term as defined in Section 3 of the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1002(40(A)), as amended, that meets at least one of the following criteria:
 - a. Has at least one employer member of the MEWA that is either domiciled in this State or has its principal headquarters or principal administrative office in this State.
 - b. Solicits an employer that is domiciled in this State or that has its principal headquarters or principal administrative office in this State.

- (4) Path 2 MEWA. – A MEWA that is established or maintained by an association of employers classified by the United States Department of Labor as a bona fide group or association under the requirements of 29 C.F.R. § 2510.3-5 and is formed by a sponsoring association that meets the following requirements:
- a. Has a constitution or bylaws that provides for all of the following:
 - 1. Regular meetings.
 - 2. Collection of dues from members.
 - 3. Operation by a board of trustees that includes an owner, partner, officer, director, or employee of at least one of the employer members of the association.
 - b. Has at least one substantial business purpose unrelated to the offering and providing of health insurance or other employee benefits to its employer members and their employees.
 - c. Has a commonality of interest shared among the employers comprising the Path 2 MEWA based on either of the following:
 - 1. Establishment by employers in the same trade, industry, line of business, or profession.
 - 2. Being a statewide organization where each employer that is a member of the organization has a principal place of business that does not exceed the boundaries of the State or a metropolitan area that is at least partially within the State, even if that metropolitan area includes portions of other states.
- (5) Sponsoring association. – An association of two or more employer members that offers an employee welfare benefit plan as a Path 2 MEWA. For purposes of this Chapter, a sponsoring association that meets the requirements of this Article shall be deemed to be a large employer.

...

→ **SECTION 2.(a)** G.S. 58-49-30 is recodified as G.S. 58-50A-60.

SECTION 2.(b) G.S. 58-49-35 is recodified as G.S. 58-50A-65.

SECTION 2.(c) G.S. 58-49-40 is recodified as G.S. 58-50A-70.

SECTION 2.(d) G.S. 58-49-45 is recodified as G.S. 58-50A-75.

SECTION 2.(e) G.S. 58-49-50 is recodified as G.S. 58-50A-80.

SECTION 2.(f) G.S. 58-49-55 is recodified as G.S. 58-50A-85.

SECTION 2.(g) G.S. 58-49-60 is recodified as G.S. 58-50A-90.

SECTION 2.(h) G.S. 58-49-65 is recodified as G.S. 58-50A-95.

SECTION 3.(a) G.S. 58-50A-60, as recodified by Section 2(a), reads as rewritten:

→ **"§ 58-50A-60. Multiple employer welfare arrangements; definition; administrators.**

(a) As used in this section, the term "multiple employer welfare arrangement" or "MEWA" means that term as defined in Section 3 of the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1002(40)(A), as amended, that meets either or both of the following criteria:

- (1) ~~One or more of the employer members of the MEWA is either domiciled in this State or has its principal headquarters or principal administrative office in this State.~~
- (2) ~~The MEWA solicits an employer that is domiciled in this State or that has its principal headquarters or principal administrative office in this State.~~

...."

...

SECTION 4.(b) G.S. 58-50-115 reads as rewritten:
"§ 58-50-115. Health benefit plans subject to Act.

...

(c) A health benefit plan is not subject to this Act if it provides health benefits for employers who are employer members of a Path 2 MEWA pursuant Article 50A of this Chapter through a policy issued to the Path 2 MEWA."

...

SECTION 8. The Revisor of Statutes is hereby authorized to make any changes to the General Statutes made necessary by the recodification in Section 2 of this act, including changes to the following sections of the General Statutes: G.S. 58-2-161, 58-3-122, 58-3-167, 58-3-169, 58-3-174, 58-3-176, 58-3-178, 58-3-190, 58-3-200, 58-3-215, 58-3-225, 58-3-227, 58-3-275, 58-28-35, 58-51-55, 58-65-90, 58-67-75, 58-68-25, and 90-21.50.

SECTION 9. If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part declared to be unconstitutional or invalid.

SECTION 10. Except as otherwise provided, this act becomes effective October 1, 2019, and applies to contracts entered into, amended, or renewed on or after January 1, 2020.

In the General Assembly read three times and ratified this the 14th day of August, 2019.

s/ Norman Sanderson
Presiding Officer of the Senate

s/ Tim Moore
Speaker of the House of Representatives

This bill having been presented to the Governor for signature on the 15th day of August, 2019 and the Governor having failed to approve it within the time prescribed by law, the same is hereby declared to have become a law. This 26th day of August, 2019.

s/ Karen Jenkins
Enrolling Clerk